

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
 FTX Trading Ltd., et al.,) Case No. 22-11068 (JTD)
)
 Debtors.) (Jointly Administered)

CLERK
US BANKRUPTCY COURT
DISTRICT OF DELAWARE

2022 DEC 29 PM 3:16

FILED

OBJECTION TO MOTION OF DEBTORS FOR ENTRY OF ORDERS

I, John Mallon (the “**Objector**”), a customer and creditor of the Debtors, hereby respond and object to the *Motion of Debtors for entry of orders (i)(a) Approving bid procedures, stalking horse protections and the form and manner of notices for the sale of certain businesses, (b) Approving assumption and assignment procedures and (c) Scheduling auction(s) and sale hearing(s) and (ii)(a) Approving the sale(s) free and clear of liens, claims, interests and encumbrances and (b) Authorizing assumption and assignment of executory contracts and unexpired leases*, filed on December 15, 2022 (the “**Motion**”)¹.

1. Factual background

Objector was a customer of the Debtors prior to their filing for Chapter 11 reorganization protection in this court on November 11, 2022 (the “**Proceedings**”). For most of Objector’s time as a customer of the Debtors, their liability to Objector was in the form of a cash balance held on the FTX.com international trading platform (the “**Platform**”). Prior to the Proceedings, Objector used their entire cash balance to buy a product known as tokenized stocks (“**Tokens**”) on the Platform. The Debtors’ documentation for Tokens provided, *inter alia*, that Tokens are backed by the underlying shares upon which the Token is issued (“**Shares**”), brokered by Swiss entity Canco GmbH (now known as FTX Switzerland GmbH; debtor #53 in the Proceedings, “**FTX Switzerland**”) and custodied by FTX Switzerland with an undisclosed third party. In order to be eligible to purchase Tokens, customers on the Platform were required to complete an additional know-your-customer (“**KYC**”) application to become a customer of the broker of the Tokens and the Shares: FTX Switzerland, which is a 100%-

¹ D. I. 233 in the Proceedings.

owned subsidiary of FTX Europe AG (debtor #41 in the Proceedings, “**FTX Europe**”), formerly known as Digital Assets DA AG. It is FTX Europe, among other entities which are proposed to be sold in the Motion. This objection concerns only the proposed sale of FTX Europe, including its assets, and its subsidiaries and their assets (the “**FTX Europe Business**”).

2. The Objection

This objection concerns the Debtors’ attempt in the Motion to seek approval for the sale of the FTX Europe Business, free and clear of liens, claims, interests, and encumbrances, “which may involve a sale of 100% of the interests in FTX Europe held by FTX Trading or sales of stock and/or assets of FTX and/or *its subsidiaries*² (the “**Sale**”).

Objector submits that there may exist a customer and debtor/creditor relationship between FTX Switzerland and customers of the Platform who submitted the enhanced KYC application to become customers of FTX Switzerland, whose applications were approved by the Debtors, and who then went on to purchase Tokens (“**Token Customers**”). Objector is part of an informal group of Token Customers and submits there are many others in a similar position as Objector.

Confirmation on the Identity Verification/KYC section of Objector’s account on the Platform (screenshot as of November 9, 2022):

Tokenized Stock KYC
Brokerage services with respect to any tokenized stock on ftx.com are provided by FTX Switzerland (Canco GmbH). TOKENIZED STOCKS ARE NOT OFFERED WITHIN THE UNITED STATES OR PROHIBITED JURISDICTIONS.
Status: Ready to trade

Objector further submits that due to the representations made to customers by Debtors regarding Tokens *infra*, Token Customers may have a secured claim over the Shares held by FTX Europe or FTX Switzerland.

Therefore, Objector respectfully requests that the proposed sale of the FTX Europe Business be paused pending a review of the FTX Europe affairs and their assets, as well as a review of the

² Page 6 of the Motion.

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potential customer relationships/creditor claims, in order to avoid the assets backing customers'/creditors' claims being sold off free of the claims of those customers/creditors.

3. The Documentation

The Debtors maintained informational documentation covering Tokens ("Documentation")³, as part of its helpdesk policies. To the best of Objector's knowledge, this was the closest document provided by Debtors resembling a terms of service or agreement regarding full Tokens. A copy of the version which was current at the time the Proceedings were filed has been filed with this objection and is available online via the link at footnote 3. It is submitted that in the Documentation, the Debtors made certain representations about Tokens which are relevant to this objection.

1. Outlining breakdown of customer relationship, and that the brokerage is provided by FTX Switzerland, not FTX Trading Ltd:

How is this trading regulated?

Canco GmbH (FTX Switzerland) is an authorized financial intermediary permitted to offer these products. All FTX users who trade tokenized stocks may also become customers of FTX Switzerland, and pass through its KYC and compliance. Furthermore, all trading activity may be monitored for compliance by FTX Switzerland. FTX Switzerland custodies the equities at a third party brokerage firm. Canco GmbH (FTX Switzerland), instead of FTX Trading Ltd, FTX Digital Markets Ltd or other affiliates, provides the brokerage services.

2. Outlining that applicants for this service become customers of FTX Switzerland:

How do you trade tokenized stocks on FTX?

Mechanically, you trade tokenized stocks the same way you trade other spot markets. Fees, API calls, and GUI instructions are all the same.

In order to register for tokenized stocks trading on FTX, go to <https://ftx.com/tokenized-equities-kyc> to submit your KYC information to and become a customer of Canco GmbH (FTX Switzerland).

Following that, you may be asked to answer some information on your trading experience.

³ <https://web.archive.org/web/20221027042145/https://help.ftx.com/hc/en-us/articles/360051229472-Tokenized-Stocks>

3. Outlining that the tokens are backed by shares and custodied by FTX Switzerland, and that tokens can be redeemed for the underlying shares:

What exactly is traded on FTX?

FTX itself lists tokens on the equities. For instance, ftx.com/trade/TSLA/USD is a market to trade tokens on Tesla stock.

These spot tokens are backed by shares of Tesla stock custodied by FTX Switzerland. They can be redeemed with FTX Switzerland for the underlying shares if desired. In the future, there may be other ways to withdraw the tokens from FTX. If you are interested in getting set up to redeem the stocks, please email support.

4. Describing situations based on the rights (e.g. right to receive dividend, and right to vote) which would suggest ownership of underlying shares by FTX Switzerland:

How are corporate actions handled?

Holding tokenized stocks on FTX entitles users to dividends, etc. of the underlying stock. FTX will pursue all reasonable actions to have the tokens on FTX reflect the corporate actions of the underlying equities, including through dividends and stock splits. It is not anticipated that the shares will exercise their voting rights but FTX Switzerland may do so in its discretion.

For US listed products, the dividends on FTX will be paid out at 2pm HKT on ex-date. At this time US equities are closed, and it's between after-hours and pre-open trading.

We will continue to investigate but for now dividends will be paid out *gross* of tax, and it will be up to each user to understand the tax consequences of any dividends they receive.

Dividends will generally be credited to your account around 2pm HKT.

In the event of an unusual circumstance we will endeavor to have a fair and reasonable resolution.

Objector submits that due to the way in which the relationship between Token Customers and FTX Switzerland was established and due to the representations made in the Documentation *supra* upon which that relationship may have been entered into, there may be “liens, claims, interests and encumbrances” on the FTX Europe Business.

Objector submits that Token Customers may be secured creditors of FTX Switzerland and/or FTX Europe, because a transfer of money was made to the Debtors based on a representation by the

Debtors that there was an underlying security backing the Token for which the money was transferred.

4. Outcome Sought

Objector submits that any Shares or other assets held by FTX Switzerland or FTX Europe should be made available to settle Token Customers' claims prior to the Sale. If the Shares are with a third party custodian per the Documentation, these Shares should be redeemed by FTX Switzerland or FTX Europe to be made available to settle Token Customers' claims prior to the Sale, or arrangements should be made with Token Customers so that the proceeds of the liability owed to FTX Switzerland or FTX Europe by this custodian or other relevant third parties should be made available to settle Token Customers' claims.

Respectfully submitted,

/s/ John Mallon
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Pro se creditor

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FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
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FTX Trading Ltd., et al.,) Case No. 22-11068 (JTD)
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Debtors.) (Jointly Administered)

via CM/ECF and/or email

NOTICE OF OBJECTION TO MOTION OF DEBTORS FOR ENTRY OF ORDERS

TO: (a) Proposed Counsel for the Debtors and Debtors-in-Possession, (b) Counsel for Official Committee of Unsecured Creditors, and (c) the U.S. Trustee.

On December 29, 2022, I, John Mallon (the “Objector”), had delivered via personal courier to be filed an objection to the *Motion of Debtors for entry of orders (i)(a) Approving bid procedures, stalking horse protections and the form and manner of notices for the sale of certain businesses, (b) Approving assumption and assignment procedures and (c) Scheduling auction(s) and sale hearing(s) and (ii)(a) Approving the sale(s) free and clear of liens, claims, interests and encumbrances and (b) Authorizing assumption and assignment of executory contracts and unexpired leases*, filed on December 15, 2022 (the “Motion”)⁴.

/s/ John Mallon
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⁴ D. I. 233 in the Proceedings.

Pro se creditor

CERTIFICATE OF SERVICE

I, John Mallon, hereby certify that on this day, December 29, 2022, in accordance with Delaware Bankruptcy Court Local Rule 9036-1(b) and the terms of service set out in the Motion, I served notice of the foregoing objection via CM/ECF and/or via email upon the below-listed parties:

Proposed Counsel for the Debtors and Debtors-in-Possession:

<i>Adam G. Landis</i> Landis Rath & Cobb 919 Market Street, Suite 1800 Wilmington, Delaware 19801 landis@lrclaw.com	<i>James L. Bromley</i> Sullivan & Cromwell 125 Broad Street New York, NY 10004 bromleyj@sullcrom.com
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<i>Matthew R. Pierce</i> Landis Rath & Cobb 919 Market Street, Suite 1800 Wilmington, Delaware 19801 pierce@lrclaw.com	<i>Alexa J. Kranzley</i> Sullivan & Cromwell 125 Broad Street New York, NY 10004 kranzleya@sullcrom.com
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<i>Andrew G. Dietderich</i> Sullivan & Cromwell 125 Broad Street New York, NY 10004 dietdericha@sullcrom.com
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U.S. Trustee:

<i>Juliet M. Sarkessian</i> 844 King Street Suite 2207 Wilmington, DE 19801 juliet.m.sarkessian@usdoj.gov
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Counsel for Official Committee of Unsecured Creditors:

<i>Kristopher M. Hansen</i> Paul Hastings 200 Park Avenue New York, NY 10166 krishansen@paulhastings.com	<i>Gabriel E. Sasson</i> Paul Hastings 200 Park Avenue New York, NY 10166 gabesasson@paulhastings.com
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Pro se creditor

Tokenized Stocks – FTX Exchange

 web.archive.org/web/20221027042145/https://help.ftx.com/hc/en-us/articles/360051229472-Tokenized-Stocks

Tokenized Stocks

FTX Crypto Derivatives Exchange

Updated June 14, 2022 16:51

Disclaimers

1. *None of this is investment advice.*
2. *Much of the below analysis ignores any difference between equity prices on different venues, and ignores the effects of fees. It also ignores slippage, and generally assumes that all transactions happened at theoretical prices instead.*
3. *While this does generally describe how tokenized stock trading on FTX works, it contains approximations and should not be taken as precise.*
4. *In general, FTX reserves the final right to interpretation of all actions on its platform.*
5. *This document may become out of date at some point and fail to reflect updated policies.*
6. *FTX reserves the right to restrict usage of its tokenized stock trading as it sees fit.*
7. *Users should trade tokenized stocks at their own risk.*
8. *Brokerage services with respect to tokenized stocks on FTX are provided by Canco GmbH (FTX Switzerland).*
9. *Tokenized Stocks, like the rest of FTX, are not being offered to US users or other prohibited jurisdictions, potentially including Iran, Afghanistan, North Korea, Hong Kong, Singapore, Australia and/or other jurisdictions. Users must pass sufficient KYC checks in order to trade tokenized stocks on FTX. For more information, see [here](#).*

FTX Switzerland (Canco GmbH) is authorized to provide brokerage services for tokenized stock trading.

What are tokenized stocks?

Equities are stocks that trade on traditional regulated exchanges. In addition to tokenized stocks, FTX may be offering tokens on ETFs, futures, currencies, or other similar products.

How is this trading regulated?

Canco GmbH (FTX Switzerland) is an authorized financial intermediary permitted to offer these products. All FTX users who trade tokenized stocks may also become customers of FTX Switzerland, and pass through its KYC and compliance. Furthermore, all trading activity may be monitored for compliance by FTX Switzerland. FTX Switzerland custodies the equities at a third party brokerage firm. Canco GmbH (FTX Switzerland), instead of FTX Trading Ltd, FTX Digital Markets Ltd or other affiliates, provides the brokerage services.

In order to trade tokenized stocks on FTX, you must be at least KYC level 2. Once you are, you can go to your tokenized stocks KYC page to submit your information to FTX Switzerland. You must also not be a member of one of FTX's restricted jurisdictions, including the United States; FTX collects KYC documents and IP addresses from its users. FTX does not operate in its restricted jurisdictions.

FTX and FTX Switzerland may also collect further information from prospective users, and may require passing a test in order to trade. Further compliance measures may be used as appropriate.

Users are also encouraged to consult their personal and local situation in order to determine whether trading tokenized stocks on FTX is right for them.

What exactly is traded on FTX?

FTX itself lists tokens on the equities. For instance, ftx.com/trade/TSLA/USD is a market to trade tokens on Tesla stock.

These spot tokens are backed by shares of Tesla stock custodied by FTX Switzerland. They can be redeemed with FTX Switzerland for the underlying shares if desired. In the future, there may be other ways to withdraw the tokens from FTX. If you are interested in getting set up to redeem the stocks, please email support.

Who can trade tokenized stocks on FTX?

In order to trade tokenized stocks on FTX, you must be at least KYC level 2.

All FTX users who trade tokenized stocks must also pass through Canco GmbH's (FTX Switzerland's) KYC and compliance. Once you are KYC 2, you can go to your settings page to submit your information to FTX Switzerland.

You cannot trade tokenized stocks on FTX from any of the banned jurisdictions, including the United States. Note that the set of allowed jurisdictions is subject to change.

How do you trade tokenized stocks on FTX?

Mechanically, you trade tokenized stocks the same way you trade other spot markets. Fees, API calls, and GUI instructions are all the same.

In order to register for tokenized stocks trading on FTX, go to <https://ftx.com/tokenized-equities-kyc> to submit your KYC information to and become a customer of Canco GmbH (FTX Switzerland).

Following that, you may be asked to answer some information on your trading experience.

How long does KYC take?

First, you must be KYC 2 on FTX. That can take up to a day.

Then, you submit your KYC information to FTX Switzerland. That could be quite fast, but generally takes a couple business days. The process takes substantially longer if you submit incomplete or unclear KYC information.

Note that if you have an institutional account on FTX, KYC with FTX Switzerland will likely take at least a day or two. Individual accounts are often faster.

How are corporate actions handled?

Holding tokenized stocks on FTX entitles users to dividends, etc. of the underlying stock. FTX will pursue all reasonable actions to have the tokens on FTX reflect the corporate actions of the underlying equities, including through dividends and stock splits. It is not anticipated that the shares will exercise their voting rights but FTX Switzerland may do so in its discretion.

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In the event of an unusual circumstance we will endeavor to have a fair and reasonable resolution.

What hours do tokenized stocks trade on FTX?

24/7! Note, however, that the liquidity of the underlying assets may vary over the course of the day and week, and that might end up reflected in the liquidity of FTX's markets.

How do tokenized stocks interact with balances on FTX?

Tokenized stocks are spot tokens, like BTC/ETH/FTT/etc. They can also be used as collateral for futures trading on FTX, with a collateral weight of 0.85 (total) and 0.80 (initial).

How do futures on tokenized stocks work?

FTX also lists futures on tokenized stocks, including tokenized futures.

Tokenized stock futures will track FTX spot markets as their index. They will work the same as futures on other FTX products, with the following conditions:

- 1) In the case of an ordinary dividend, the futures will *not* have any adjustments
- 2) In the case of many other corporate actions, including stock splits, significant spinoffs, etc., futures *will* adjust, either by changing denominators or by turning into a future on the whole basket in the case of spinoffs.
- 3) FTX reserves the final right to determination.
- 4) Futures expire to their index (generally the FTX spot markets) over the relevant TWAP period.

Trading futures on tokenized stocks on FTX requires the same KYC procedure as trading tokenized stocks themselves.

Note that stocks can be highly volatile and illiquid, especially when their primary listing exchange is closed. Please exercise your judgement and caution when trading futures on tokenized stocks. Any risk that you take in your trades is your responsibility to manage. You might be liquidated if futures prices change.